

TCEQ Interoffice Memorandum

To: Commissioners

Thru: Bridget Bohac, Chief Clerk

From: John Gillen, Manager, Watermaster Section, Water Availability Division

Date: August 31, 2012

Subject: Agenda Executive Summary for Approval of Fiscal Year 2013 Proposed Assessment for Annual Costs for Watermaster Operations in the Concho River Watermaster Program Set for September 19, 2012 Uncontested Agenda; Docket No. 2012-1412-BGT

Summary of Request:

The Concho River Watermaster Program seeks approval of its Fiscal Year (FY) 2013 proposed assessment for annual costs of operations based on its operating budget which consists of a \$50.00 base fee applicable to each assessment account. A penalty of 5.0% of any delinquent fee shall be imposed on a person who fails to pay the required fee when due and if the person fails to pay the fee within 30 days after the date the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after the due date. The yearly interest rate on all delinquent fees required under this title is the prime rate plus one percent, as published in the *Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or a legal holiday. Penalties and/or interest fees may be waived by the Executive Director for good cause. The Executive Director estimates the proposed assessment of One Hundred Seventy-One Thousand Four Hundred Ten Dollars and Seventy Cents (\$171,410.70) will generate revenue of One Hundred Sixty-Nine Thousand Six Hundred Ninety-Six Dollars and Fifty-Nine Cents (\$169,696.59) for FY 2013.

Authority: Tex. Water Code § 11.329
30 Tex. Admin. Code §§ 12.1, 12.3, and 12.5

Staff Recommendation:

Approval of the Concho River Watermaster Program FY 2013 Assessment for Annual Cost of Operations.

Contact: John Gillen, (512) 239-4721
Cindy Hooper, (210) 403-4080

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST**

AGENDA REQUESTED: September 19, 2012

DATE OF REQUEST: August 8, 2012

**NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO
THIS REQUEST, IF NEEDED:**

Steve Ramos, (210) 403-4040
Cindy Hooper, (210) 403-4080

**CONSIDERATION OF FISCAL YEAR 2013 ASSESSMENT OF ANNUAL
COSTS FOR WATERMASTER OPERATIONS IN THE CONCHO RIVER
WATERMASTER PROGRAM.** Pursuant to Texas Water Code Section 11.329 and 30
Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 304.61 of the Commission Rules, the
Executive Director requests that the Commission consider Watermaster assessment of
annual costs for the fiscal year beginning September 1, 2012, and ending August 31,
2013, for appropriators in the Concho River Watermaster Program which consists of the
Concho River segment of the Colorado River Basin that includes the Concho River and
all of its tributaries, downstream on the main stem of the Concho River to a point on the
Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and
including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No.
4954450000) in Concho County and approve \$171,410.70 as the amount to be assessed
for annual costs.

CHIEF CLERK MUST SEND NOTICE OF THE APPLICATION/HEARING: No

TYPE OF MATTER: Budget

COUNTY: The eight counties within the Concho Watermaster's Jurisdiction (Irion,
Runnels, Sterling, Coke, Reagan, Tom Green, Schleicher, and Concho)

DOCKET NUMBER: 2012-1412-BGT

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

Assessing the Annual Cost of Operation for the Concho River Watermaster Program for the fiscal year beginning September 1, 2012, and ending August 31, 2013;
Docket No. 2012-1412-BGT; Concho River Watermaster

On September 19, 2012, after proper notice and public hearing as provided in Texas Water Code § 11.329, came to be considered by the Texas Commission on Environmental Quality ("Commission") the matter of cost for the Watermaster operations in the said Program for the fiscal year beginning September 1, 2012, and ending August 31, 2013. After reviewing the supporting documentation, the Commission finds as follows:

1. The Concho River Watermaster Program, as designated pursuant to House Bill 2815 (Chapter 11, Subchapter K of the Texas Water Code) passed in the Regular Session, 79th Legislature, 2005, consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream of the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County;
2. Pursuant to Texas Water Code § 11.329, the holders of water rights which are to be administered by the Watermaster may be assessed the compensation and necessary expenses of a Watermaster, assistant Watermasters, and other necessary employees;
3. 30 Texas Administrative Code (TAC) §§ 304.61-304.63 set forth formulas and procedures for the assessment of costs of the Watermaster operations in the Concho River Watermaster Program;
4. The compensation and necessary expenses of a Watermaster and other necessary employees for the fiscal year beginning September 1, 2012 and ending August 31, 2013 will require the amount to be assessed in the sum of One Hundred Seventy-One Thousand Four Hundred Ten Dollars and Seventy Cents (\$171,410.70).
5. The charges, fees, formulas for assessment rates, and method for assessing and levying costs approved below constitute an equitable apportionment of costs, as required by Texas Water Code §§ 11.329 and 11.558;

6. All requirements of Texas Water Code §§ 11.329 and 11.558 and 30 TAC §§ 304.61-304.63 have been met.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

1. That the amount of One Hundred Seventy-One Thousand Four Hundred Ten Dollars and Seventy Cents (\$171,410.70) is approved as the total amount to be assessed for annual costs of operations of the Concho River Watermaster Program during the fiscal year beginning September 1, 2012 and ending August 31, 2013, and that such amount is assessed against the water rights holders in the Concho River Watermaster Program in the manner described in this order and pursuant to 30 TAC §§ 304.61-304.63;
2. That the following charges, rates, fees, formulas for assessment rates and method for assessing and levying cost are approved and shall be implemented by the Executive Director:
 - a. A base charge for each assessment account of Fifty Dollars (\$50.00);
 - b. Assessment rates for each assessment account to be calculated by the Executive Director in accordance with the procedures set forth in 30 TAC § 304.63;
 - c. Assessment of costs and levy of assessments for each account in accordance with procedures set forth in 30 TAC § 304.63;
 - d. A penalty of 5.0% of the fee due shall be imposed when the assessment is not paid on time. If the assessment is not paid within 30 days after the day on which the fee is due, an additional 5.0% penalty shall be imposed pursuant to 30 TAC Chapter 12;
 - e. Delinquent fees accrue interest beginning on the 61st day after their due date;
 - f. Penalties and/or interest under this section may be waived by the Executive Director for good cause; and
3. That the Executive Director shall specify dates by which payments assessed pursuant to this order shall be paid or postmarked.

Issued This Date: _____

Texas Commission on
Environmental Quality

For the Commission

TCEQ Interoffice Memorandum

To: Commissioners

Thru: L'Oreal Stepney, P.E., Deputy Director
Office of Water

From: Kellye Rila, Director
Water Availability Division

Date: August 31, 2012

Subject: Fiscal Year (FY) 2013 Proposed Assessment of Annual Costs of Operations
for the Concho River Watermaster Program

The Concho River Watermaster fund is required by Texas Water Code (TWC) § 11.329 to pay compensation and expenses of the Watermaster and to pay expenditures for equipment, facilities, and capital expenditures necessary for Watermaster operations when recommended by the Watermaster Advisory Committee (WAC) and the Executive Director and approved by the Commission.

The attached document, "Concho River Watermaster Operations", was provided to Concho River Watermaster Program WAC members on June 8, 2012 and during a public meeting on July 12, 2012 in San Angelo, Texas. The second column, "FY13 Operating Budget Needs" indicates the projected program needs within the FY 2013 appropriation. Also, attached to this memo is a copy of the public meeting notice for the July 2012 Concho River WAC meeting. An additional public meeting notice was mailed on August 20, 2012 to all affected water right holders regarding this budget item scheduled for the September 19, 2012 commission agenda. A copy of that notice and the mailing affidavit from the Chief Clerk's office are also attached. As required by the TWC, this notice provides thirty (30) days notice of the budget hearing.

WAC members have agreed with staff's recommendation for the proposed "FY13 Operating Budget Needs" in the amount of \$169,696.59. A copy of the WAC meeting agenda is attached for your information.

Staff recommends the "FY13 Operating Budget Needs" in the amount of \$169,696.59. Using this budget amount, the program calculates its assessment based on a 99% collection rate; therefore, the total assessment amount of \$171,410.70 with a municipal rate of \$0.5937. This staff proposal represents an increase of \$0.0195 from the previous year's municipal rate of \$0.5742. The calculated rate for FY 2013 is expected to generate revenue in excess of the Comptroller's Biennial Revenue Estimate (BRE) when combined with the revenue estimates for the Rio Grande Watermaster Program and the South Texas Watermaster Program. This combined excess revenue collection will

TCEQ Interoffice Memorandum

provide access to the contingency Watermaster appropriations as authorized in Rider 24 of the General Appropriations Act.

This memorandum requests Commission approval of the Concho River Watermaster Program operating budget and assessment for FY 2013. If I can be of further assistance or should you have any questions regarding this matter, please contact me at 239-4612, John Gillen, Watermaster Section Manager at 239-4721, or Steve Ramos, Concho River Watermaster at (210) 403-4040.

Concho River Watermaster Operations

Annual Appropriation Information

	FY11	FY12	FY13
Legislative Appropriation Amount (including SORM)	130,191.93	144,660.80	144,412.88
Anticipated Rider Funding	0.00	1,509.52	6,026.71
Estimated Fringe and SWCAP (not in Appropriation)	28,381.00	19,110.00	19,257.00
Estimated Total Fund Obligation	\$158,572.93	\$165,280.32	\$169,696.59

FY11 Budget/Anticipated Expenditures Compared to FY12 Operating Budget Needs

Budget Categories	FY12 Approved Budget	FY13 Operating Budget Needs	Difference from FY12 to FY13
Salaries	106,981.30	\$112,435.00	5,453.70
Longevity	2,176.00	\$3,228.00	1,052.00
Salary Enhancements (1)	2,728.02	\$2,994.59	266.57
Fringe (2)	18,369.00	\$18,630.00	261.00
SORM (3)	273.00	\$240.00	(33.00)
SWCAP (4)	741.00	\$627.00	(114.00)
LAR Capital (5)	0.00	\$0.00	0.00
Professional/Temp Services (6)	7,850.00	\$2,000.00	(5,850.00)
Travel In-State (7)	3,500.00	\$5,000.00	1,500.00
Travel Out-of-State	0.00	\$0.00	0.00
Training	500.00	\$508.00	8.00
Rent - Building (8)	11,000.00	\$11,000.00	0.00
Postage	1,100.00	\$1,100.00	0.00
Phone/Utilities	2,671.00	\$3,213.00	542.00
Supplies - Consumables	300.00	\$300.00	0.00
Other Operating Expenses (9)	81.00	\$411.00	330.00
Fuels/Lubricants	4,500.00	\$5,500.00	1,000.00
Rent - Machine & Other	710.00	\$710.00	0.00
Facilities, Furniture & Equip (10)	1,800.00	\$1,800.00	0.00
Capital Equipment - Non LAR (11)	0.00	\$0.00	0.00
TOTAL	\$165,280.32	\$169,696.59	\$4,416.27

Notes:

- (1) Salary Enhancements are calculated based on 3.4% of 75% of total Salaries; these are projections only; actual expenditures will vary based on salary actions approved by management
- (2) Fringe includes employee benefits such as health insurance, social security insurance, and retirement
- (3) State Office of Risk Management (SORM) is a fee that is charged annually to the TCEQ; amount is estimated during budget development; actual expenditure may vary
- (4) Statewide Cost Allocation Plan (SWCAP) is a fee that is charged annually to the TCEQ for central services; amount is estimated during budget development; actual expenditure may vary
- (5) Legislative Appropriation Request (LAR) Capital includes all items exceeding \$25,000 in total agency cost (ex: vehicles, computers, monitoring equipment); must have legislative approval
- (6) Professional/Temp Services includes but is not limited to software development costs, summer interns, temporary employees
- (7) Travel In-State is capped at an agency level; an increase in WM travel funding cannot be accommodated without a corresponding decrease in travel funding in another agency program
- (8) A proportionate share of the annual TCEQ Regional Office building rent is charged to the Watermaster Program
- (9) Other Operating Expenses includes items designated by Comptrollers Office that do not fall into any remaining budget category (ex: annual vehicle inspection fees, vehicle decals, etc)
- (10) Facilities, Furniture & Equipment (FFE) includes but is not limited to non-LAR equipment less than \$5,000 in cost, non-consumable supplies, vehicle maintenance and repairs, etc
- (11) Capital Equipment - Non LAR includes capital items with a cost between \$5,000 and \$24,999

FY13 Proposed Assessment Calculation

FY13 Operating Budget Needs	\$169,696.59
Assessment Necessary Based on 99.0% Collection Rate	\$171,410.70

Historical Assessment Comparison

	FY11	FY12	FY13
Total Assessment	\$159,050.00	\$165,777.00	\$171,410.70
Municipal Rate	0.5489	0.5742	0.5937

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Bridget C. Bohac, Chief Clerk of the Texas Commission on Environmental Quality, do hereby certify that the Notice of Consideration of Proposed Assessment of Annual Costs for the Concho River Watermaster Program, was mailed on August 20, 2012. Given under my hand and the seal of the Texas Commission on Environmental Quality, this the 20th day of August, 2012.

A handwritten signature in cursive script, reading "Bridget C. Bohac", written over a horizontal line.

Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality

SEAL



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

NOTICE OF CONSIDERATION OF PROPOSED ASSESSMENT OF ANNUAL COSTS FOR THE CONCHO RIVER WATERMASTER PROGRAM

The Commissioners of the Texas Commission on Environmental Quality will consider the Concho River Watermaster Operation's budget and proposed assessment for costs for September 1, 2012 through August 31, 2013 (TCEQ Fiscal Year 2013), during a public meeting at:

**9:30 A.M. in Building E, Room 201S
Located at 12100 Park 35 Circle
In Austin, Texas on
September 19, 2012**

This item is Docket No. 2012-1412-BGT, Consideration of an Order assessing costs of Watermaster operations in the Concho River Watermaster Program which consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the mainstream of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County.

The compensation and necessary expenses of the Concho River Watermaster Operations for the fiscal year is One Hundred Sixty-Nine Thousand Six Hundred Ninety-Six Dollars and Fifty-Nine Cents (**\$169,696.59**). Of this amount, One Hundred Thirty-Seven Thousand Two Hundred Eighty-Seven Dollars and Fifty-Nine Cents (**\$137,287.59**) are needed for program staff base salaries and benefits (including longevity, salary enhancements, and fringe) and the remaining Thirty-Two Thousand Four Hundred and Nine Dollars (**\$32,409.00**) are needed for program operating costs. Based on a 99% collection rate, these necessary expenses require a total assessment of One Hundred Seventy-One Thousand Four Hundred and Ten Dollars and Seventy Cents (**\$171,410.70**) with a municipal rate of **\$0.5937**.

This notice is provided to all holders of water rights as required by the Texas Water Code Section 11.329. You may attend this meeting and provide comments to the Commission concerning this item. Persons with disabilities who have special communication or other accommodation needs who are planning to attend this meeting should contact the Office of Administrative Services Facilities Liaison at (512) 239-0080. Requests should be made as far in advance as possible.

The Concho River Watermaster Advisory Committee (WAC) was provided the proposed assessment and budget and a public meeting was held in San Angelo, Texas on July 12, 2012. The public was invited to attend this WAC meeting via notice dated June 8, 2012. If you have any questions or would like a copy of the proposed budget, please contact the Concho River Watermaster's Office at (325) 481-8069 or (866) 314-4894, via fax at (325) 658-5431, or email at Steve.Ramos@tceq.texas.gov.

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 1, 2012

Re: Preliminary Budget for Fiscal Year 2013 for the Concho River Watermaster

Dear Concho River Watermaster Advisory Committee Members:

Enclosed for your review is a preliminary Proposed Budget for Fiscal Year 2013 (FY13) Concho River Watermaster Program (CTWM). This notice is required by the Texas Water Code to be submitted at least 60 days before the Texas Commission on Environmental Quality (Commission, or TCEQ) meets to consider a proposed order establishing the final assessment amount (Texas Water Code, Section 11.557).

The Watermaster will present a detailed proposed budget to the Watermaster Advisory Committee (WAC) during a meeting at the TCEQ's San Angelo regional office on Thursday, July 12, 2012 at 1:30 p.m. Staff will mail a notification of this meeting to all water right holders and will provide an opportunity for the public to provide comments at the meeting.

The following list includes the pending time frames for budget approval:

- **June 14:** Watermaster staff will mail notification of WAC meeting to water right holders.
- **July 12:** The WAC will meet to discuss the preliminary budget.
- **July 16-31:** TCEQ management will review the proposed budget
- **August 3:** TCEQ will mail notice of the Commission meeting to all water right holders.
- **September 5:** The Commission will meet to consider approval of the FY13 budget.
- **September - October:** The Watermaster will mail FY13 invoices to water right holders.

The proposed assessment provides funding needed to support the Watermaster Program without additional TCEQ subsidy. Preliminary calculations indicate that the total amount to be assessed for FY13 would be \$171,410.70, which is an increase when compared to FY12. Much of this difference is the result of revising the amount of the watermaster program liaison positions for this program.

If you have any questions or comments, please do not hesitate to contact me at (512) 239-4721 or Esteban (Steve) Ramos, South Texas/Concho River Watermaster at (210) 403-4040.

Sincerely,

A handwritten signature in black ink, appearing to read "John Gillen".

John Gillen
Manager, Watermaster Section (MC-160)
Water Availability Division

Enclosure

PUBLIC MEETING NOTICE

CONCHO RIVER WATERMASTER ADVISORY COMMITTEE

DATE: Thursday, July 12, 2012

TIME: 1:30 P.M.

LOCATION: Texas Commission on Environmental Quality, San Angelo Regional Office
622 South Oakes, Suite K; San Angelo, Texas 76903-7035

Section 11.557(f) of the Texas Water Code requires the Watermaster Advisory Committee (WAC) to review, hold a public hearing on, and make recommendations on the annual budget proposed by the watermaster so as to cover all costs of the Concho River Watermaster Program. The Concho River WAC will hold a meeting at the TCEQ's San Angelo Regional Office on July 12, 2012 at 1:30 p.m. to discuss the proposed Concho River Watermaster budget for fiscal year 2013. **The public, including all water right holders in the watermaster area, are invited to attend and participate in this meeting as well as to provide comments.**

You will also receive another notice after the WAC meeting is held. Section 11.329(b) of the Water Code requires the executive director to provide notice to water right holders at least 30 days prior to the Commission holding a public hearing on the proposed fiscal year budget. The public notice will be mailed following the completion of the WAC meeting and at least 30 days before the date that the proposed budget being considered during a Commission agenda meeting.

Notice Date: June 8, 2012

Esteban (Steve) Ramos, South Texas / Concho River Watermaster

For questions or for a copy of the Concho River Watermaster budget for the current fiscal year 2012, please feel free to call (210) 490-3096.

Special Notice – Participation on Committee

The Concho River WAC was established based on the Texas Water Code Section 11.557. The WAC is required to:

- provide recommendations to the watermaster and deputy watermaster regarding water administration and distribution activities that would benefit water rights holders;
- advise the watermaster and deputy watermaster on complaints and enforcement matters;
- provide input on the annual budget of the Concho River Watermaster Program by reviewing the draft budget proposed by the watermaster, holding a public hearing on the proposed budget, and making recommendations to the executive director; and
- provide assistance as requested by the watermaster, deputy watermaster, or water right holders.

The TCEQ values input from the Concho River WAC and is actively seeking interested participants to serve on the committee as vacancies become available. If you are interested in serving, or would like to nominate someone for appointment consideration, please contact the South Texas / Concho River Watermaster's office at (210) 490-3096, via fax at (325) 658-5431, or e-mail at Steve.Ramos@tceq.texas.gov.

Concho River Watermaster Advisory Committee Meeting
622 S. Oakes, Ste. K
San Angelo, TX 76903

July 12, 2012 @ 1:30 pm

Agenda

Sign-In..... A. J. Jones/Mayor New
Roll Call..... A. J. Jones/Mayor New
Review/Approval of Minutes..... A. J. Jones/Mayor New
Old Business A. J. Jones/Mayor New

Funding Options for Moving the USGS Gauge (Maggie Kerr)

South Concho USGS Gauge Update (TCEQ Staff)

New Business A.J. Jones/Mayor New

FY13 Budget Discussion (TCEQ Staff)

Update on Colorado River Watermaster Program (TCEQ Staff)

Renewal of Terms Expiring August 31, 2012

Future Meetings

Adjourn